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10/708,566

03/11/2004

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EXAMINER

OBEID, FAHD A

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/708,566	<b>Applicant(s)</b> DELIWALA ET AL.	
	<b>Examiner</b> FAHD A. OBEID	<b>Art Unit</b> 3627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 05 March 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>03/05/2008</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Status of the Application*

1. This is in reply to application filed on 03/05/2008.
2. Claims 1-19 have been amended.
3. Claim 20 has been added.
4. Claims 1-20 are currently pending and have been examined.

The examiner acknowledges applicants submission of amendments filed on 03/05/2008, and therefore the previous office action's rejection with respect to the 35 USC 112 has been withdrawn.

### *Double Patenting Rejection*

1. **Claims 1, 10, and 12** are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over **claims 1-4** of copending Application **No. 10/628,731**. Although the conflicting claims are not identical, they are not patentably distinct from each other because:

**Instant Claim**

**Claims in Application # 10/628,731**

1

1

10

1 and 2

12

3 and 4

2. Regarding Claim 1: claim 1 differ from claim 1 in the 10/628,731 application as follows:

- Receiving user information including an internal structure defining a group within an entity, and billing information for said group (receiving billing information).
- Allocating said technology resource billings to at least one of said user and said group based on said user information (allocating billing information by the various business dimensions such as business processes, organizational information and associated business performance metrics).

3. Regarding Claim 10: claim 10 differ from claims 1 and 2 in the 10/628,731 application as follows:

- Providing descriptive billing statements including total computer usage time, account, project, process or division, etc. is encompassed by the term (reading business dimensions such as business processes, organizational information and associated business performance metrics).

- Computer usage time associated with each identifier, users associated with the computer usage, and processing power associated with each usage which is encompassed by the term (Associated business performance metrics).

4. Regarding Claim 12: Claim 12 differ from claim 3 in the 10/628,731 application as follows:

- Determining the internal structure of said user entity, including various groups and sub-groups within said entity is encompassed by the term (organizational information includes a plurality of groups, wherein one of said plurality of groups comprises a plurality of sub-groups).
- Determining the billing details of each group within the entity is encompassed by (determining costs incurred by each of said sub-groups and determining costs incurred by each of said groups).

5. Regarding Claim 12: claim 12 is identical to claim 4 in the 10/628,731 application.

The differences in the claims are deemed to be obvious variants of each other.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. **Claims 1-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Ginter (5,910,987).**

8. Regarding Claim 1: Ginter discloses a method for facilitating the allocation of technology resource billings incurred by a user, said method comprising:

- Receiving data corresponding to usage of a technology resource by said user (usage information gathering; see at least col 2 lines 9-10 and col 3 lines 33-34).
- Receiving user information including an internal structure defining a group within an entity (user identification; see col 40 line 62), and billing information for said group (col 304 lines 43-65), (collecting billing; see col 179 lines 58-67 and claim 1).
- Allocating said technology resource billings to at least one of said user and said group based on said user information (a user setting a limit on the price for electronic documents that the user is willing to pay without prior express user authorization; see col 28 lines 12-31, col 304 lines 43-65, col 306 lines 5-48, col 307 lines 39-67, and claim 1).

9. Regarding Claim 2: Ginter discloses a method of claim 1 wherein said technology resource further includes at least one of computer usage (col 10 lines 1-25), wherein said computer usage includes computing time obtained from an outsourced provider, telephony resource usage (col 317 lines 1-11), manufacturing cycles and production runs.
10. Regarding Claim 3: Ginter discloses a method of claim 1, wherein said receiving user information further includes receiving said user information at a controller (fig 50A, col 300 lines 63-67, and col 306 lines 27-48).
11. Regarding Claim 4: Ginter discloses a method of claim 1, further including automatically recognizing said user (fig 15A, cols 24-25 lines 63-67 & 1-2).
12. Regarding Claim 5: Ginter discloses a method of claim 4, further including assigning an identifier to said user (fig 27, col 121-122 lines 25-67 & 1-55).
13. Regarding Claim 6: Ginter discloses a method of claim 1, wherein said allocating said technology resource billings further includes allocating loyalty points (such as discounts, gift certificate, or coupons) to said user (col 157 lines 32-36, col 244 lines 6-10, and col 307 lines 45-67).

14. Regarding Claim 7: Ginter discloses a method of claim 1, wherein said allocating said technology resource billings further includes reducing said technology resource billings by a monetary value of loyalty points (col 157 lines 32-36, col 244 lines 6-10, and col 307 lines 45-67).

15. Regarding Claim 8: Ginter discloses a method of claim 1, wherein said allocating said technology resource billings further includes at least one of transferring, pooling and gifting loyalty points (col 157 lines 32-36, col 244 lines 6-10, and col 307 lines 45-67).

16. Regarding Claim 9: Ginter discloses a method of claim 1, further including providing a descriptive billing statement including said user information (the billing method describes the pricing algorithm that should be used in the billing; see col 188 lines 53-67).

17. Regarding Claim 10: Ginter discloses a method of claim 2, further including providing a descriptive billing statement (the billing method describes the pricing algorithm that should be used in the billing; see col 188 lines 53-67) including at least one of:

- said user information, a total of computer usage time, said computer usage time associated with at least one of an identifier, an account, a project, a process and a division, a time period of said computer usage, a user associated with said



computer usage occurring during said time period, an authorization received, a rule engine guideline used during said computer usage, a notification sent by a controller, an account billed for said computer usage, a processing power associated with said computer usage, a provider providing said computer usage time, said computer usage and said technology resource billings associated with at least one of a business model file, an application profile, and a value driver, an analysis of at least one of said computer usage and said technology resource billings, statistics of at least one of said computer usage and said technology resource billings, and graphical display of at least one of said computer usage and said technology resource billings (receiving a bill delivered through use of VDE, wherein such a bill is derived from said usage; see col 301 lines 31-60).

18. Regarding Claim 11: Ginter discloses a method of claim 1, further including adjusting said technology resource billings based upon at least one of a CPU-second used, a total CPU-seconds expected to be used, a volume discount, a stepped-type of pricing, a peak/off-peak usage, a geographic location, a service provided, a performance expectation, a location, a service level scoring, a CPU cycle, a local power consumption cost, a physical site security, an increased site security, an additional operational procedure needed to support increased sensitive data, a level of fail over needed, a service level agreement, and an account data privacy requirement (col 157 lines 32-36, col 244 lines 6-10, and col 307 lines 49-55).

19. Regarding Claim 12: Ginter discloses a method of claim 1 wherein said step of receiving user information further includes:

- determining said internal structure, including various groups and sub-groups within said entity (fig 33, fig 81, col 311 lines 51-62, col 314 lines 1-25); determining a billing detail of a group within said entity (col 311 lines 51-62); determining a value driver of said entity (fig 33, fig 81, col 311 lines 51-62, col 314 lines 1-25); and determining an application profile of said entity (an entity has user name and password where it contains privacy information such as profile; see fig 72A, col 35 lines 8-11, col 283 lines 1-3, and col 290 lines 21-49).

20. Regarding Claim 13: Ginter discloses a method of claim 2, further f including:

- Monitoring said computer usage (determining usage as related to billing and monitoring for current usage; see col 145 lines 52-55, col 271 lines 23-48, and col 317 lines 1-11).
- Notifying said user of said computer usage (claim 1).

21. Regarding Claim 14: Ginter discloses a method of claim 13, wherein said monitoring said computer usage further includes monitoring in at least one of substantially real-time, a pre-established time period and a random time period (col 317 lines 1-11).

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22. Regarding Claim 15: Ginter discloses a method of claim 13, wherein said notifying said user further includes notifying said user via at least one of phone, email, pager, cell phone, personal digital assistant, and fax (col 53 lines 54-67, col 235 lines 8-25, col 269 lines 53-67).

23. Regarding Claim 16: Ginter discloses a method of claim 13, wherein said notifying said user further includes providing at least one of a signal, usage clock, and a monetary usage value to said user (col 117 lines 1-15).

24. Regarding Claim 17: Ginter discloses a method of claim 13, further including performing data analysis of said computer usage (usage analysis information; see col 284 58-65, col 287 lines 9-10, and col 287 lines 49-62).

25. Regarding Claim 18: Ginter discloses a method of claim 13, further including suggesting a cost efficient usage practice (VDE can provide efficient reusable, modifiable, and consistent means for distribution, usage control, usage payment, usage auditing, and usage reporting; see fig 72D, col 8 lines 17-25, col 98 lines 56-67).

26. Regarding Claim 19: Ginter discloses a method of claim 13, further including requesting a bid based upon said monitoring step (col 246-247 lines 54-67 & 1-9, col 312 lines 41-52, and col 317 lines 12-28).

27. Regarding Claim 20: Ginter discloses a method of claim 1, wherein said user information further includes at least one of an identifier, a business model file, an application profile, a value driver, a user level, a geographic area, a project, a zone, a third party provider, loyalty information and a rule (fig 27, col 121-122 lines 25-67 & 1-55).

### ***Response to Arguments***

1. Applicant's arguments have been fully considered but they are not persuasive. In particular the applicant argues that: a) receiving data corresponding to usage of a technology resource by said user b) allocating said technology resource billings to at least one of said user and said group.

In response to a) examiner respectfully disagrees. Applicant is reminded that claims must be given their broadest reasonable interpretation. Ginter teaches usage information gathering (col 2 lines 9-10 and col 3 lines 33-34), (reporting usage; col 5 lines 1-2), (usage information may also be reported through one or more "chains" of parties; col 6 lines 18-19).

In response to b) examiner respectfully disagrees. Ginter teaches recording the number of bytes of content usage used by a user, based on the usage the distributor's/owner's of the content bills the user at \$0.50 per kilobyte for usage (col 304 lines 49-56), (establishing a fee of \$0.10 per access per user for users who receive control information from distributor for usage of the content to ensure correct payments of said usage; col 306 lines 5-25)

Therefore, Ginter still meets the scope of the limitation as currently claimed.

2. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to FAHD A. OBEID whose telephone number is (571)270-3324. The examiner can normally be reached on Monday to Friday 8:00am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ryan Zeender can be reached on 571-272-6790. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Fahd A Obeid/  
Examiner, Art Unit 3627  
03/29/2008

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